



STATE OF NEW JERSEY

In the Matter of Daniel Urban, Fire
Fighter (M1544T), Jersey City

CSC Docket No. 2019-32

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

List Removal Appeal

ISSUED: OCTOBER 5, 2018 (SLK)

Daniel Urban, represented by Thomas J. Cammarata, Esq., appeals Jersey City's removal of his name from the eligible list for Fire Fighter (M1544T), Jersey City, on the basis that he resided outside of the residency scope.

The appellant took the open competitive examination for Fire Fighter (M1544T), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant failed to prove that he lived in Jersey City. Specifically, a background check indicated that he voted in multiple elections in Bayonne after the August 31, 2015 closing date for the subject examination and only changed his voter registration address to Jersey City on December 11, 2017. Additionally, his 2016 federal tax return indicated that his address was in Bayonne.

On appeal, the appellant submits certifications from himself, his girlfriend, his roommate, and his landlord indicating that he has lived in Jersey City since January 2015. Additionally, he submits a lease agreement that demonstrates that he began leasing an apartment in Jersey City starting on January 1, 2015 and he submits checks starting in December 2014 as evidence that he has been paying rent for this apartment since that time. He explains that prior to moving to Jersey City, he lived in Bayonne and he voted there in 2016 even though he lived in Jersey City, as he was under the impression that he could still vote in Bayonne since he had not yet changed his voter registration address. The appellant states he changed his driver's license

address to Jersey City in July 2015. Additionally, he submits copies of payments made to an Uber account to demonstrate that he made numerous trips to and from his Jersey City address since 2016. The appellant also submits bank statements for the past two years to show that he has made numerous purchases near his Jersey City address during this time frame.

In response, the appointing authority, represented by James B. Johnston, Assistant Corporation Counsel, relies on its background report which indicates that the appellant's 2016 federal tax return shows that his address was in Bayonne and he voted in Bayonne after the subject examination closing date. It asserts that if the appellant did live in Jersey City while he voted in Bayonne, this would technically be considered voter fraud.

CONCLUSION

N.J.A.C. 4A:4-2.11(e)1 provides that when an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment.

N.J.A.C. 4A:4-2.11(c) provides that where residency requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner, a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and

6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

N.J.A.C. 4A:4-2.11(h) provides that an applicant seeking to appeal a residency determination shall have the burden of proving his or her residency.

In the instant matter, the appellant's background clearly provides a basis for removal from the subject list. For the subject examination, residency in Jersey City was required from the August 31, 2015 closing date through appointment. Although the appellant claims that he has been a resident in Jersey City since January 1, 2015, the record indicates otherwise. Specifically, the appellant voted in Bayonne in 2016 and his 2016 federal tax return indicates a Bayonne address. In the alternative, if the appellant has continuously resided in Jersey City since the closing date, then he has committed voter fraud and fraudulently reported his address on his 2016 federal tax return. Further, the appellant's explanation that he thought he could vote in Bayonne in 2016 while living in Jersey City because he had not changed his voter registration address is not persuasive as to credit this excuse would essentially sanction voter fraud. Moreover, he has not provided any explanation as to why he filed a tax return with a Bayonne address while living in Jersey City. It is noted that a federal tax return asks for the tax filer's address and then requires the filer to sign and date it. Per the tax return, the signatory represents, "Under penalties of perjury, I declare that I have examined this return and accompanying schedules, and to the best of my knowledge and belief, they are true, correct, and complete." In other words, while the appellant wants to now assert that he has continuously lived in Jersey City since the subject examination closing date, he had the opportunity to indicate that he lived in Jersey City at the time he submitted his 2016 federal tax return, but chose not to do so. Once again, he has either not continuously lived in Jersey City or falsified his residency on his tax return.¹

Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the (M1544T) eligible list.

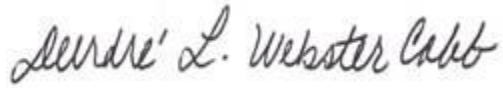
ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

¹ It is noted that either voter fraud or fraudulently completing a tax return would be cause to remove a Fire Fighter candidate from a list as the public expects a Fire Fighter to present a personal background that exhibits respect for the law and the rules. See *In the Matter of Jose Rivera, III* (CSC, decided July 13, 2017).

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3rd DAY OF OCTOBER, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Daniel Urban
Thomas J. Cammarata, Esq.
Robert Kakoleski
James B. Johnston, Assistant Corporation Counsel
Kelly Glenn